

AMENDED IN ASSEMBLY AUGUST 22, 2014

SENATE BILL

No. 1271

Introduced by Senator Leno

(Coauthors: Senators Anderson, DeSaulnier, Gaines, and Steinberg)

(Coauthor: Assembly Member Ammiano)

February 21, 2014

An act to ~~amend Section 26004 of the Public Resources Code, relating to energy;~~ *add Section 1542.7 to the Penal Code, relating to search warrants.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1271, as amended, Leno. ~~Energy: alternative energy and advanced transportation.~~ *Search warrants: portable electronic devices.*

Existing law prohibits a search warrant from being issued unless based upon probable cause supported by affidavit, naming or describing the person to be searched or searched for, and particularly describing the property, thing, or things and place to be searched. Existing case law generally prohibits arresting officers from searching the contents of a cellular telephone taken from a suspect during an arrest without a warrant.

This bill would prohibit the search of information contained in a portable electronic device, as defined, by a law enforcement officer incident to a lawful custodial arrest except pursuant to a warrant issued by a duly authorized magistrate using established procedures.

~~Existing law establishes the California Alternative Energy and Advanced Transportation Financing Authority consisting of 5 members and authorizes the authority to provide financial assistance to projects related to the utilization of alternative energy sources or advanced transportation technologies.~~

~~This bill would add two additional members to the authority, one appointed by the Senate Committee on Rules and another appointed by the Speaker of the Assembly.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. It is the intent of the Legislature, in enacting~~
2 ~~Section 1542.7 of the Penal Code, to further public policy, codify~~
3 ~~the decision in *Riley v. California*, 573 U.S. ____ (2014), and~~
4 ~~implement the provisions of Sections 1 and 13 of Article 1 of the~~
5 ~~California Constitution and the Fourth Amendment of the United~~
6 ~~States Constitution.~~

7 ~~SEC. 2. Section 1542.7 is added to the Penal Code, immediately~~
8 ~~following Section 1542, to read:~~

9 ~~1542.7. (a) The information contained in a portable electronic~~
10 ~~device is not subject to search by a law enforcement officer incident~~
11 ~~to a lawful custodial arrest except pursuant to a warrant issued~~
12 ~~by a duly authorized magistrate using the procedures established~~
13 ~~by this chapter.~~

14 ~~(b) As used in this section, “portable electronic device” means~~
15 ~~any portable device that is capable of creating, receiving,~~
16 ~~accessing, or storing electronic data or communications.~~

17 ~~(c) Except as provided in subdivision (a), nothing in this section~~
18 ~~curtails law enforcement reliance on other established exceptions~~
19 ~~to the warrant requirement.~~

20 ~~SECTION 1. Section 26004 of the Public Resources Code is~~
21 ~~amended to read:~~

22 ~~26004. (a) There is in the state government the California~~
23 ~~Alternative Energy and Advanced Transportation Financing~~
24 ~~Authority. The authority constitutes a public instrumentality and~~
25 ~~the exercise by the authority of powers conferred by this division~~
26 ~~is the performance of an essential public function.~~

27 ~~(b) The authority shall consist of seven members, as follows:~~

28 ~~(1) The Director of Finance.~~

29 ~~(2) The Chairperson of the State Energy Resources Conservation~~
30 ~~and Development Commission.~~

31 ~~(3) The President of the Public Utilities Commission.~~

32 ~~(4) The Controller.~~

- 1 ~~(5) The Treasurer, who shall serve as the chairperson of the~~
2 ~~authority.~~
3 ~~(6) One person appointed by the Senate Committee on Rules.~~
4 ~~(7) One person appointed by the Speaker of the Assembly.~~
5 ~~(e) The members listed in paragraphs (1) to (5), inclusive, of~~
6 ~~subdivision (b) may each designate a deputy or clerk in his or her~~
7 ~~agency to act for and represent the member at all meetings of the~~
8 ~~authority.~~
9 ~~(d) The first meeting of the authority shall be convened by the~~
10 ~~Treasurer.~~

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